

## Enforcement Update – Bakken Pipelines

**Blacktail Creek** - On Friday, 2/27, Art Palomares, Sheldon Muller, and I participated in a conference call with Dave Glatt, Karl Rockeman (NDDH Water Division), and Maggie Olsen (ND AG's office). Karl provided the following updates on the Blacktail Creek spill: Groundwater extraction continues with some removal from Blacktail creek when possible. Summit Midstream is on-site 7 days/ week. The state is reducing on-site presence to 5 days/week. Additional containment structures and interceptor trenches now on the creek. No additional oil at the moment; dramatic decrease in impacts in recent days. Chlorides are above background levels but below WQS. NDDH is working with ND Game and Fish, FWS, and the Corps to document impacts. FWS will be looking at fish tissue samples next week. USGS is sampling isotopes and will compare results with October samples in an attempt to determine duration of release.

We had a long discussion regarding options for cooperating on an enforcement action, including 1) joining as co-plaintiffs in a federal action; and 2) conducting coordinated, parallel actions. We expressed our preference for the first option. The state was receptive to coordination. They asked for examples of confidentiality agreements, joint complaints and joint consent decrees. Sheldon will provide these to Maggie Olsen on Monday. Glatt will confer with his boss, and Maggie will confer with the Attorney General after they review the information Sheldon provides. We agreed to follow-up at our regularly scheduled Thursday afternoon, 2:30 MDT call.

ECEJ will be meeting with CID this week to discuss parallel proceedings. We are preparing an information request to send to Summit (NDDH indicated that they typically don't send information requests, but would be interested in coordinating with us on the information we are seeking).

**Bridger/ Glendive** – Tom Livers is on vacation so asked John Arrigo of MDEQ's enforcement division to return my call regarding conducting a joint enforcement action. On Friday, 2/27, Arrigo and I spoke. Arrigo indicated that while the state wants to take its own enforcement action seeking injunctive relief and penalties, he is very interested in coordinating and possibly working in parallel on information gathering and contacts with Bridger. Arrigo has scheduled a meeting with Livers, Jenny Chambers (MDEQ remediation division), and MDEQ's enforcement attorneys to discuss this. He will follow up with me during the week of 3/9.

ECEJ will be meeting with DOJ during the week of 3/2 to discuss this case. We will begin preparing an expedited referral and an information request.

**Corps/ EPA Call** – On Friday, 2/27, Martin, David Ostrander, Laura Williams and I spoke with Katie Schenk and Larry Janis of Corps Omaha District concerning Bakken spills. We shared highlights of our early February meetings with the MHA Nation and NDDH. Larry Janis provided updates of Ft Berthold Working Partners meeting (Cindy Beeler attended) and BFEG (Joan, Cindy and Steve Way attended). Action item for EPA relates to produced water spill response training and education regarding actions and authorities, particularly regarding first 72-96 hours. The Corps would like EPA to take the lead; wants to ensure that BFEG doesn't get in EPA's way, but wants to move quickly. The Corps mentioned issues including spills occurring on Corps property and responders (state and tribe) not seeking proper

access or sharing sample results with the Corps. The Corps also mentioned an ongoing (2 day old) sewage spill from the wastewater treatment plant in New Town, where sewage was flowing onto the Corps' property. Laura Williams offered to contact an OSC to investigate whether a response from EPA was warranted.